



Frank W. Volk
Frank W. Volk, Chief Judge
United States Bankruptcy Court
Southern District of West Virginia

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

IN RE: PATRIOT COAL CORPORATION, ET AL., Debtors.	CASE NO. 15-bk-32450 (EDVA) MAIN CASE CHAPTER 11 JUDGE KEITH L. PHILLIPS
IN RE: SPEED MINING, LLC, Debtor.	CASE NO. 15-bk-32462 (EDVA) CHAPTER 11 JUDGE KEITH L. PHILLIPS
JOHN BOLON, Plaintiff, v. BLACKHAWK MINING, LLC, SPEED MINING, LLC, DALE SMITH, SHAWN ENDICOTT, and DEBRA VAUGHN, Defendants.	ADVERSARY PROCEEDING NO. 2:16-ap-02008 LEAD ACTION JUDGE FRANK W. VOLK
BLACKHAWK MINING, LLC, Third-Party Plaintiff, v. SPEED MINING, LLC, Third-Party Defendant.	

BLACKHAWK MINING, LLC, v. SPEED MINING, LLC, Counter-Defendant.	
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IN RE: SPEED MINING, LLC, Debtor.	CASE NO. 15-bk-32462 (EDVA) CHAPTER 11 JUDGE KEITH L. PHILLIPS
STEVEN SMITH, v. BLACKHAWK MINING, LLC, SPEED MINING, LLC, DALE SMITH, SHAWN ENDICOTT, and DEBRA VAUGHN, Defendants.	ADVERSARY PROCEEDING NO. 2:16-ap-02009 CONSOLIDATED ACTION JUDGE FRANK W. VOLK
BLACKHAWK MINING, LLC, v. SPEED MINING, LLC, Third-Party Defendant.	

BLACKHAWK MINING, LLC, v. SPEED MINING, LLC, Counter-Defendant.	
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IN RE: SPEED MINING, LLC, Debtor.	CASE NO. 15-bk-32462 (EDVA) CHAPTER 11 JUDGE KEITH L. PHILLIPS
ARTHUR E. ADKINS, v. BLACKHAWK MINING, LLC, SPEED MINING, LLC, DALE SMITH, SHAWN ENDICOTT, and DEBRA VAUGHN Defendants.	ADVERSARY PROCEEDING NO. 2:16-ap-02011 CONSOLIDATED ACTION JUDGE FRANK W. VOLK
BLACKHAWK MINING, LLC, v. SPEED MINING, LLC, Third-Party Defendant.	

BLACKHAWK MINING, LLC, Counter-Claimant v. SPEED MINING, LLC, Counter-Defendant.	
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IN RE: APPALACHIA MINE SERVICES, LLC, Debtor.	CASE NO. 15-bk-32460 (EDVA) CHAPTER 11 JUDGE KEITH L. PHILLIPS
JACKIE EARL TERHERST, Plaintiff, v. BLACKHAWK MINING, LLC, APPALACHIA MINE SERVICES, LLC, COLIN MILAM, BOBBY STOVER, and GREG DOTSON Defendants.	ADVERSARY PROCEEDING NO. 2:16-ap-02012 CONSOLIDATED ACTION JUDGE FRANK W. VOLK
BLACKHAWK MINING, LLC, Third-Party Plaintiff, v. APPALACHIA MINE SERVICES, LLC, Third-Party Defendant.	

BLACKHAWK MINING, LLC, Counter-Claimant, v. APPALACHIA MINE SERVICES, LLC, Counter-Defendant.	
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IN RE: SPEED MINING, LLC, Debtor.	CASE NO. 15-bk-32462 (EDVA) CHAPTER 11 JUDGE KEITH L. PHILLIPS
JACK SIZEMORE, Plaintiff, v. BLACKHAWK MINING, LLC, SPEED MINING, LLC, JOE PRICE, DEBRA VAUGHN, and PANTHER CREEK MINING, LLC Defendants.	ADVERSARY PROCEEDING NO. 2:16-ap-02016 CONSOLIDATED ACTION JUDGE FRANK W. VOLK
BLACKHAWK MINING, LLC, and PANTHER CREEK MINING, LLC, Third-Party Plaintiffs, v. SPEED MINING, LLC, Third-Party Defendant.	

BLACKHAWK MINING, LLC, Cross-Claimant, v. SPEED MINING, LLC Cross-Defendant.	
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IN RE: SPEED MINING, LLC, Debtor.	CASE NO. 15-bk-32462 (EDVA) CHAPTER 11 JUDGE KEITH L. PHILLIPS
REX SMITH, v. Plaintiff, BLACKHAWK MINING, LLC, SPEED MINING, LLC, JOE PRICE, DEBRA VAUGHN, and PANTHER CREEK MINING, LLC, Defendants.	ADVERSARY PROCEEDING NO. 2:16-ap-02017 CONSOLIDATED ACTION JUDGE FRANK W. VOLK
BLACKHAWK MINING, LLC, and PANTHER CREEK MINING, LLC, v. Third-Party Plaintiffs, SPEED MINING, LLC, Third-Party Defendant.	

BLACKHAWK MINING, LLC, Cross-Claimant, v. SPEED MINING, LLC, Cross-Defendant.	
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IN RE: SPEED MINING, LLC, Debtor.	CASE NO. 15-bk-32462 (EDVA) CHAPTER 11 JUDGE KEITH L. PHILLIPS
JOHN FOX, Plaintiff, v. BLACKHAWK MINING, LLC, SPEED MINING, LLC, DALE SMITH, DEBRA VAUGHN, and PANTHER CREEK MINING, LLC, Defendants.	ADVERSARY PROCEEDING NO. 2:16-ap-02018 CONSOLIDATED ACTION JUDGE FRANK W. VOLK
BLACKHAWK MINING, LLC, Cross-Claimant, v. SPEED MINING, LLC, Cross Defendant.	

BLACKHAWK MINING, LLC, PANTHER CREEK MINING, LLC, Third-Party Plaintiffs, v. SPEED MINING, LLC, Third-Party Defendants.	
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IN RE: WILDCAT ENERGY, LLC, Debtor.	CASE NO. 15-bk-32465 (EDVA) CHAPTER 11 JUDGE KEITH L. PHILLIPS
DENNIS BARKER, v. Plaintiff, BLACKHAWK MINING, LLC, WILDCAT ENERGY, LLC, JAMES BUCKNER, MARK GEORGE, and PANTHER CREEK MINING, LLC, Defendants.	ADVERSARY PROCEEDING NO. 2:16-ap-02020 CONSOLIDATED ACTION JUDGE FRANK W. VOLK
BLACKHAWK MINING, LLC, v. Third-Party Plaintiff, WILDCAT ENERGY, LLC, Third-Party Defendant.	

IN RE: EASTERN ASSOCIATED COAL, LLC, Debtor.	CASE NO. 15-bk-32484 (EDVA) CHAPTER 11 JUDGE KEITH L. PHILLIPS
BARRY BROWN, Plaintiff, v. BLACKHAWK MINING, LLC, EASTERN ASSOCIATED COAL, LLC, COLIN MILAM, and GREG DOTSON, Defendants.	ADVERSARY PROCEEDING NO. 2:16-ap-02021 CONSOLIDATED ACTION JUDGE FRANK W. VOLK
BLACKHAWK MINING, LLC, Third-Party Plaintiff, v. EASTERN ASSOCIATED COAL, LLC, Third-Party Defendant.	

IN RE: SPEED MINING, LLC, Debtor.	CASE NO. 15-bk-32462 (EDVA) CHAPTER 11 JUDGE KEITH L. PHILLIPS
DAVID DOWNEY, Plaintiff, v. BLACKHAWK MINING, LLC, SPEED MINING, LLC, DALE SMITH, DEBRA VAUGHN, and PANTHER CREEK MINING, LLC, Defendants.	ADVERSARY PROCEEDING NO. 2:16-ap-02022 CONSOLIDATED ACTION JUDGE FRANK W. VOLK
BLACKHAWK MINING, LLC, Third-Party Plaintiff, v. SPEED MINING, LLC, Third-Party Defendant.	

IN RE: SPEED MINING, LLC, Debtor.	CASE NO. 15-bk-32462 (EDVA) CHAPTER 11 JUDGE KEITH L. PHILLIPS
JAMES OILER, v. BLACKHAWK MINING, LLC, SPEED MINING, LLC, DALE SMITH, SHAWN ENDICOTT, DEBRA VAUGHN, and PANTHER CREEK MINING, LLC, Defendants.	ADVERSARY PROCEEDING NO. 2:16-ap-02023 CONSOLIDATED ACTION JUDGE FRANK W. VOLK
PANTHER CREEK MINING, LLC, v. SPEED MINING, LLC, Third-Party Defendant.	

IN RE: WILDCAT ENERGY, LLC, Debtor.	CASE NO. 15-bk-32465 (EDVA) CHAPTER 11 JUDGE KEITH L. PHILLIPS
BRENDA TEDDER, Plaintiff, v. BLACKHAWK MINING, LLC, WILDCAT ENERGY, LLC, KEVIN BAKER, WAYNE ELKINS, and MARK GEORGE, Defendants.	ADVERSARY PROCEEDING NO. 2:16-ap-02024 CONSOLIDATED ACTION JUDGE FRANK W. VOLK
BLACKHAWK MINING, LLC, Third-Party Plaintiff, v. WILDCAT ENERGY, LLC, Third-Party Defendant.	

IN RE: SPEED MINING, LLC, Debtor.	CASE NO. 15-32462 (EDVA) CHAPTER 11 JUDGE KEITH L. PHILLIPS
FORREST WILLIAMS, Plaintiff, v. BLACKHAWK MINING, LLC, SPEED MINING, LLC, DALE SMITH, SHAWN ENDICOTT, DEBRA VAUGHN, and PANTHER CREEK MINING, LLC, Defendants.	ADVERSARY PROCEEDING NO. 2:16-ap-02025 CONSOLIDATED ACTION JUDGE FRANK W. VOLK
BLACKHAWK MINING, LLC, and PANTHER CREEK MINING, LLC, Third-Party Plaintiffs, v. SPEED MINING, LLC, Third-Party Defendant.	

IN RE: WILDCAT ENERGY, LLC, Debtor.	CASE NO. 15-32465 (EDVA) CHAPTER 11 JUDGE KEITH L. PHILLIPS
PAUL ESTEP, v. JOHN DOE LLC, JAMES BUCKNER, JERRY PRICE, MARK GEORGE, and BLACKHAWK MINING, LLC, Defendants.	ADVERSARY PROCEEDING NO. 2:16-ap-02028 CONSOLIDATED ACTION JUDGE FRANK W. VOLK
BLACKHAWK MINING, LLC, v. WILDCAT ENERGY, LLC, Third-Party Defendant.	Third-Party Plaintiff,

IN RE: GATEWAY EAGLE COAL COMPANY, LLC, Debtor.	CASE NO. 15-32493 (EDVA) CHAPTER 11 JUDGE KEITH L. PHILLIPS
HAROLD WOODS, Plaintiff, v. JOHN DOE LLC, COLIN MILAM, GREG DOTSON, and BLACKHAWK MINING, LLC, Defendants.	ADVERSARY PROCEEDING NO. 2:16-ap-02029 CONSOLIDATED ACTION JUDGE FRANK W. VOLK
BLACKHAWK MINING, LLC, Third-Party Plaintiff, v. GATEWAY EAGLE COAL COMPANY, LLC, Third-Party Defendant.	

IN RE: GATEWAY EAGLE COAL COMPANY, LLC, Debtor.	CASE NO. 15-32493 (EDVA) CHAPTER 11 JUDGE KEITH L. PHILLIPS
JON HATFIELD, Plaintiff, v. BLACKHAWK MINING, LLC, JOHN DOE LLC, COLIN MILAM, and GREG DOTSON, Defendants.	ADVERSARY PROCEEDING NO. 2:16-ap-02030 CONSOLIDATED ACTION JUDGE FRANK W. VOLK
BLACKHAWK MINING, LLC, Third-Party Plaintiff, v. GATEWAY EAGLE COAL COMPANY, LLC, Third-Party Defendant.	

IN RE: HOBET MINING, LLC, Debtor.	CASE NO. 15-32462 (EDVA) CHAPTER 11 JUDGE KEITH L. PHILLIPS
STEVEN GODBY, Plaintiff, v. ERP COMPLIANT FUELS, LLC, VIRGINIA CONSERVATION LEGACY FUND, INC., ERP ENVIRONMENTAL FUND, INC., BENNY DIXON, CHARLENE NECESSARY, and DENNIS WELLMAN, Defendants.	ADVERSARY PROCEEDING NO. 2:16-ap-02033 CONSOLIDATED ACTION JUDGE FRANK W. VOLK

IN RE: SPEED MINING, LLC, Debtor.	CASE NO. 15-32462 (EDVA) CHAPTER 11 JUDGE KEITH L. PHILLIPS
THOMAS TAYLOR, Plaintiff, v. BLACKHAWK MINING, LLC, PANTHER CREEK MINING, LLC, DALE SMITH, SHAWN ENDICOTT, and DEBRA VAUGHN, Defendants.	ADVERSARY PROCEEDING NO. 2:16-ap-02034 CONSOLIDATED ACTION JUDGE FRANK W. VOLK
BLACKHAWK MINING, LLC, and PANTHER CREEK MINING, LLC, Third-Party Plaintiffs, v. SPEED MINING, LLC, Third-Party Defendant.	

IN RE: SPEED MINING, LLC, Debtor.	CASE NO. 15-32462 (EDVA) CHAPTER 11 JUDGE KEITH L. PHILLIPS
DAVID MCENDREE, Plaintiff, v. BLACKHAWK MINING, LLC, SPEED MINING, LLC, JAMES LEMON, DEBRA VAUGHN Defendants.	ADVERSARY PROCEEDING NO. 2:16-ap-02043 CONSOLIDATED ACTION JUDGE FRANK W. VOLK
BLACKHAWK MINING, LLC, Cross-Claimant, v. SPEED MINING, LLC, Cross Defendant.	

IN RE: SPEED MINING, LLC, Debtor.	CASE NO. 15-32462 (EDVA) CHAPTER 11 JUDGE KEITH L. PHILLIPS
GARY DEAL, Plaintiff, v. BLACKHAWK MINING, LLC, SPEED MINING, LLC, JAMES LEMON, DEBRA VAUGHN Defendants.	ADVERSARY PROCEEDING NO. 2:16-ap-2044 CONSOLIDATED ACTION JUDGE FRANK W. VOLK
BLACKHAWK MINING, LLC, Cross-Claimant, v. SPEED MINING, LLC, Cross Defendant.	

IN RE: SPEED MINING, LLC, Debtor.	CASE NO. 15-32462 (EDVA) CHAPTER 11 JUDGE KEITH L. PHILLIPS
GARY VANMETER, Plaintiff, v. BLACKHAWK MINING, LLC, PANTHER CREEK MINING, LLC, DEBRA VAUGHN Defendants.	ADVERSARY PROCEEDING NO. 2:16-ap-2045 CONSOLIDATED ACTION JUDGE FRANK W. VOLK
BLACKHAWK MINING, LLC, PANTHER CREEK MINING, LLC, Third-Party Plaintiffs, v. SPEED MINING, LLC, Third-Party Defendant.	

IN RE: SPEED MINING, LLC, Debtor.	CASE NO. 15-32462 (EDVA) CHAPTER 11 JUDGE KEITH L. PHILLIPS
MICHAEL SPACK, Plaintiff, v. BLACKHAWK MINING, LLC, PANTHER CREEK MINING, LLC, DEBRA VAUGHN Defendants.	ADVERSARY PROCEEDING NO. 2:16-ap-2046 CONSOLIDATED ACTION JUDGE FRANK W. VOLK
BLACKHAWK MINING, LLC, PANTHER CREEK MINING, LLC, Third-Party Plaintiffs, v. SPEED MINING, LLC, Third-Party Defendant.	

IN RE: SPEED MINING, LLC, Debtor.	CASE NO. 15-32462 (EDVA) CHAPTER 11 JUDGE KEITH L. PHILLIPS
KEITH REEVES, Plaintiff, v. BLACKHAWK MINING, LLC, ROCKWELL MINING, LLC COLIN MILAM JUSTIN RAY GREG DOTSONJAMES LEMON, DEBRA VAUGHN Defendants.	ADVERSARY PROCEEDING NO. 2:16-ap-2047 CONSOLIDATED ACTION JUDGE FRANK W. VOLK
BLACKHAWK MINING, LLC, ROCKWELL MINING, LLC Third-Party Plaintiffs, v. APPALACHIA MINE SERVICES, LLC Third-Party Defendant.	

IN RE: SPEED MINING, LLC, Debtor.	CASE NO. 15-32462 (EDVA) CHAPTER 11 JUDGE KEITH L. PHILLIPS
PAUL RICHARDSON, Plaintiff, v. BLACKHAWK MINING, LLC, PANTHER CREEK MINING, LLC, DEBRA VAUGHN Defendants.	ADVERSARY PROCEEDING NO. 2:16-ap-2048 CONSOLIDATED ACTION
BLACKHAWK MINING, LLC, PANTHER CREEK MINING, LLC, Third-Party Plaintiff, v. SPEED MINING, LLC, Third-Party Defendant.	JUDGE FRANK W. VOLK

MEMORANDUM OPINION AND ORDER RESPECTING PENDING MOTIONS

The above-styled actions were removed on various dates beginning in February 2016 and concluding in mid-August 2016. It appears that the removals have now ceased. On June 27, 2016, the Court entered its “Order and Notice Respecting Consolidation,” (“June Order”) which joined these actions for purposes of adjudicating certain matters. The *Bolon* matter was designated as the lead case. The Court now **ORDERS** that the subsequently removed *McEndree*,

Deal, Vanmeter, Spack, Reeves, and Richardson matters be, and hereby are, consolidated with, and added as member cases to, the *Bolon* matter.

There are certain motions pending in each case. The motions to remand and to amend were filed by the various Plaintiffs. The motions to transfer were filed by one or more Defendants:

Case Style	Motion to Remand	Motion to Transfer	Motion to Amend Complaint
Bolon v. Blackhawk Mining, LLC, et al.,	3/4/2016	2/16/2016	3/1/2016
Smith v. Blackhawk Mining, LLC, et al.,	3/4/2016	2/16/2016	3/1/2016
Adkins v. Blackhawk Mining, LLC, et al.,	3/4/2016	2/16/2016	3/1/2016
Terherst v. Blackhawk Mining, LLC, et al.,	3/4/2016	2/16/2016	3/1/2016
Sizemore v. Blackhawk Mining, LLC et al.,	3/7/2016	2/23/2016	N/A
Smith v. Blackhawk Mining, LLC, et al.,	3/7/2016	2/23/2016	N/A
Fox v. Blackhawk Mining, LLC, et al.,	3/7/2016	2/23/2016	N/A
Barker v. Blackhawk Mining, LLC, et al.,	3/7/2016	3/3/2016	N/A
Brown v. Blackhawk Mining, LLC, et al.,	3/7/2016	3/3/2016	N/A
Downey v. Blackhawk Mining, LLC, et al.,	3/7/2016	3/3/2016	N/A
Oiler v. Blackhawk Mining, LLC, et al.,	3/7/2016	3/3/2016	N/A
Tedder v. Blackhawk Mining, LLC, et al.,	3/7/2016	3/3/2016	N/A
Williams v. Blackhawk Mining, LLC, et al.,	3/7/2016	3/3/2016	N/A
Estep v. Doe LLC et al.,	3/7/2016	3/7/2016	N/A
Woods v. John Doe LLC, et al.,	3/7/2016	3/7/2016	N/A
Hatfield v. Blackhawk Mining, LLC, et al.,	3/7/2016	3/7/2016	N/A
Godby v. ERP Compliant Fuels, LLC, et al.,	3/18/2016	3/23/2016	N/A
Taylor v. Blackhawk Mining, LLC, et al.,	3/22/2016	3/18/2016	N/A
McEndree v. Blackhawk Mining, LLC, et al.,	N/A	8/8/2016	N/A
Deal v. Blackhawk Mining, LLC, et al.,	N/A	8/8/2016	N/A
Vanmeter v. Blackhawk Mining, LLC, et al.,	8/19/2016	8/8/2016	N/A
Spack v. Blackhawk Mining, LLC, et al.,	8/19/2016	8/8/2016	N/A
Reeves v. Blackhawk Mining, LLC, et al.,	8/19/2016	8/8/2016	N/A
Richardson v. Blackhawk Mining, LLC, et al.,	8/19/2016	8/8/2016	N/A

The motions to amend are unopposed or within the time permitted for amendment as of right pursuant to Federal Rule of Civil Procedure 15(a)(1), as made applicable by Federal Rule of Bankruptcy Procedure 7015. It is, accordingly, **ORDERED** that the motions to amend be, and hereby are, **GRANTED**. It is further **ORDERED** that the proposed amended complaints be, and hereby are, filed today.

Also pending in the *Woods* and *Hatfield* matters are motions by Blackhawk Mining, LLC (“Blackhawk”), for leave to file limited surreply briefs. It is **ORDERED** that the motions

be, and hereby are, **GRANTED**. It is further **ORDERED** that the proposed surreplies be, and hereby are, filed today.

Respecting the motions to remand and transfer, the June Order disclosed that the Court would utilize solely the briefing in the *Bolon* matter. The June Order additionally provided as follows: “In the event that the parties desire to be further heard on that procedure, they may express their views in writing by filing a notice in the *Bolon* matter on or before July 1, 2016” (Jun. Ord. at 20). Blackhawk was the only party that responded, asserting pertinently as follows:

[T]he Removed Actions involve similarly situated parties and arise from, in most instances, the same general facts. Joint administration and consolidation will preserve and save time, costs, and expenses for the Court and all parties involved.

(Resp. on Consolid. at 2).¹ Additionally, the Court notes that the motions to transfer in the *McEndree* and *Deal* actions are unopposed and no remand motions have been filed therein.

Inasmuch as the Court requires only the briefing in the *Bolon* matter to make the remand and transfer determinations, it is **ORDERED** that the remand and transfer motions in the following cases be, and hereby are, administratively terminated:

Case Style
Smith v. Blackhawk Mining, LLC, et al.,
Adkins v. Blackhawk Mining, LLC, et al.,
Terherst v. Blackhawk Mining, LLC, et al.,
Sizemore v. Blackhawk Mining, LLC et al.,
Smith v. Blackhawk Mining, LLC, et al.,
Fox v. Blackhawk Mining, LLC, et al.,
Barker v. Blackhawk Mining, LLC, et al.,
Brown v. Blackhawk Mining, LLC, et al.,
Downey v. Blackhawk Mining, LLC, et al.,
Oiler v. Blackhawk Mining, LLC, et al.,
Tedder v. Blackhawk Mining, LLC, et al.,

¹ Blackhawk added that the *Hatfield* and *Woods* matters included, in addition to alleged removal jurisdiction under 28 U.S.C. §§ 1334 and 1452, a separate basis for removal, namely, complete preemption under the Labor Management Relations Act, 29 U.S.C. § 185(a). To the extent that the Court determines it is necessary to consider whether complete preemption applies, it will consult the briefing in the *Hatfield* and *Woods* matters.

Blackhawk additionally noted that the *Godby* matter “does not involve Blackhawk or its affiliates and is not related to the cases against Blackhawk.” (Resp. on Consolid. at 3). Inasmuch as the *Godby* removal is based upon the same Fourth Amended Joint Plan of Reorganization at issue in the other removed actions, consolidation is appropriate.

Williams v. Blackhawk Mining, LLC, <i>et al.</i> ,
Estep v. Doe LLC <i>et al.</i> ,
Woods v. John Doe LLC, <i>et al.</i> ,
Hatfield v. Blackhawk Mining, LLC, <i>et al.</i> ,
Godby v. ERP Compliant Fuels, LLC, <i>et al.</i> ,
Taylor v. Blackhawk Mining, LLC, <i>et al.</i> ,
Vanmeter v. Blackhawk Mining, LLC, <i>et al.</i> ,
Spack v. Blackhawk Mining, LLC, <i>et al.</i> ,
Reeves v. Blackhawk Mining, LLC, <i>et al.</i> ,
Richardson v. Blackhawk Mining, LLC, <i>et al.</i> ,

The Court deems the matters submitted. It is the Court's expectation to enter rulings in the lead *Bolon* matter on or before September 28, 2016.

The Clerk is directed to transmit a copy of this Order to all counsel and parties entitled to notice.